

March 24, 2015

TO: John Podesta
Robby Mook
Dennis Cheng

FROM: Marc E. Elias
Jonathan S. Berkon

RE: **Memo for Fundraisers**

This memorandum describes how fundraisers may discuss Super PACs with campaign donors, in the event that Secretary Clinton becomes a “candidate.”¹

1. All conversations that refer to a Preferred Super PAC should include a hard ask for \$5,000.

Every conversation with a donor that refers to any Super PAC whose activities that the campaign supports (for these purposes, a “Preferred Super PAC”) should include a hard ask for \$5,000. The following statements would suffice:

- *“I am asking you to give \$5,000 to [Preferred Super PAC].”*
- *“We are asking our supporters to give \$5,000 to [Preferred Super PAC].”*
- *“The law allows us to ask our supporters for \$5,000 for [Preferred Super PAC]. That is what we are doing.”*

The examples above are illustrative, not exhaustive. We are happy to review any additional statements that might be more effective or less awkward than the above.

2. As long as a hard money solicitation is made, you may speak freely about the campaign’s support for that Super PAC’s work.

Once the hard money solicitation is made, you may speak freely with the donor about the campaign’s support for that Super PAC’s work. For example, the following statements would be fine:

- *“The [Preferred Super PAC] is doing vital work. You should support them.”*
- *“We cannot win this election without [Preferred Super PAC]. You should support them.”*

¹ Nothing in this memo suggests that Secretary Clinton has made a decision whether to run.

- *“The most important thing you can do right now is support [Preferred Super PAC].”*

Alternatively, you may make the hard money solicitation after the statement(s) of support. However, before the conversation ends, you must include the hard money solicitation. If you inadvertently forget before hanging up, you should call the campaign donor immediately and make the hard money solicitation.

3. If a donor provides you with an amount of money that s/he wants to give and asks where it should go, you should reply with a hard money ask.

If a donor says to you, “I have \$1 million I want to spend on this election” and asks where it should go, you should reply with a hard money ask.

For example, you may say: *“I want the first \$5,400 to go to the campaign. The next \$33,400 should go to the DNC’s main account. The next \$70,000 should go to the following seven state party federal accounts (then list them). The next \$100,200 should go to the DNC’s building fund account. Finally, you should support [Preferred Super PAC A] and [Preferred Super PAC B]. We cannot win without them. The law allows us to ask our supporters for \$5,000 each for [Preferred Super PAC A and B]. That is what we are doing.”*

However, you may not respond to the donor’s statement by simply stating, *“Please donate to [Preferred Super PAC]”* without specifying that you are asking for only \$5,000 for that Super PAC. Such a statement would be impermissible “direction” of soft money.

4. If a donor tells you that s/he plans to give a certain amount of money to a Super PAC, you should reply with a hard money ask.

If a donor says to you, “I am going to donate \$1 million to [Preferred Super PAC],” you should reply with a hard money ask. For example, you may say: *“As you know, we are asking our supporters to give \$5,000 to [Preferred Super PAC]. Thank you for your support.”*

However, you should avoid making any statements that encourages the soft money donation that the donor has indicated that she or he will make. The law does provide a limited allowance for “thank you” calls after a donation has made, but that allowance cannot be safely used before the donation is executed.

5. If a donor asks you to identify the Super PACs that the campaign is supporting, you may identify them as long as you couple it with a hard money ask.

In response to such a question, you may say: *“We support the work of Priorities USA, American Bridge, and WOMEN VOTE! They are essential to our goal of electing Secretary Clinton. That is why we are asking supporters like you to give \$5,000 to each of these Super PACs.”* You may also affirmatively make this statement without awaiting the donor to pose the question.



However, you should not identify the Super PACs that the campaign is supporting without coupling it with a hard money ask.

6. If a donor asks whether the campaign is supporting the efforts of a particular Super PAC and it is not, you may tell the donor this.

It is permissible to inform a donor that the campaign is *not* supporting the efforts of a particular Super PAC (e.g., “*The campaign is not supporting the efforts of this Super PAC*” or “*The campaign is not asking its supporters to donate to this Super PAC*”). There is no need to couple this statement with a hard money ask.

7. You may also ask donors to solicit funds from other individuals in \$5,000 chunks for the Super PAC.

The following requests would be permissible:

- “*I am asking you to raise \$5,000 for Super PAC from Mr. Smith.*”
- “*I am asking you to raise \$5,000 each for Super PAC from Mr. Smith, Mrs. Jones, and Ms. Johnson.*”
- “*I am asking you to raise \$5,000 each for Super PAC from 20 individuals.*”
- “*I am asking you to raise \$100,000 for Super PAC from 20 individuals, with \$5,000 from each individual.*”

However, you may not ask individuals to raise more than \$5,000 without a clear statement that the funds be raised in \$5,000 increments from permissible sources. For example, you should not say, “I am asking you to raise \$100,000 for Super PAC.” Nor should you request, either explicitly or implicitly, that the donor make up any shortfall by contributing the remainder with her or his own funds, in excess of \$5,000.

8. Mere guidance about the law is permissible, in response to direct questions from donors.

If a donor responds to a hard money solicitation by asking whether she or he is legally permitted to contribute in excess of that amount, you may provide an accurate statement of the law. For example, you may say, “*It is true that you may give an unlimited amount, but I am only permitted by law to ask for \$5,000 and that is what I am asking.*”

However, you should not volunteer legal guidance without being prompted by the donor.

9. Do not specifically earmark the funds for the Secretary’s election.

While each of the Preferred Super PACs has indicated that they plan to support Secretary Clinton's presidential candidacy (if she decides to run), you should not earmark the funds specifically for use in her election. If a donor asks, "Will my contribution be used to run ads supporting Secretary Clinton," you may answer, "*We do not control how the Super PAC spends its funds. But we think the Super PAC is doing great work and that is why we are encouraging or supporters to donate \$5,000.*"

10. You may provide contact information of Super PAC personnel, but you may not lean on the donor to take a call or meeting from Super PAC personnel.

It is permissible to provide donors with contact information of a Super PAC representative, so that the donors can execute the \$5,000 contribution or learn more information about the PAC if they choose to do so. However, you should not ask donors to take a call or meeting with Super PAC personnel.

For example, it is permissible to say, "*You can call _____ at _____ from [Super PAC] to find out more information.*"

But you should not say, "*_____ from [Super PAC] wants to meet with you. Can you please sit down with her?*"

Please let us know if you have questions or would like to discuss.